PS1 for 4/9/87#AFFIRMATIVE ACTION DECISION

Seventy years ago, women were denied the right to vote in about half of the states. Do you think that women today should be given two votes to remedy those years when women could not vote at all?

Most people would say that's a silly question. But a ""yes'' answer would be equivalent to what the U.S. Supreme Court decided in its recent decision upholding Affirmative Action for women.

This was a case where a woman was hired over an admittedly better qualified man for a job in the transportation agency of Santa Clara County, California. The employer, a state agency, chose to give preference to a woman in order to erase a ""manifest imbalance in traditionally segregated job categories.''

The 6-to-3 decision was written by Justice William J. Brennan, Jr., a long-time advocate of the most extreme feminist ideology. For example, in his 1973 majority opinion in (BF)Frontiero v. Richardson(end BF), Brennan wrote that American women were discriminated against by an attitude of ""romantic paternalism which, in practical effect, put women, not on a pedestal, but in a cage.''

""A cage''? That's what he said. Presumably the cage to which Brennan referred was the home. In the same paragraph, he held up for ridicule and disdain a quotation from a 19th century Supreme Court decision that ""the paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.''

Surely ""cage'' must have been a slip of the pen. But no, when you read further in the (BF)Frontiero(end BF) opinion, you find Justice Brennan lacing his fantasies about societal oppression of women with echoes of Simone de Beauvoir, Betty Friedan, Gloria Steinem, Kate Millett, and Germaine Greer in her earlier days.

""Throughout much of the 19th century,'' Brennan continued, ""the position of women in our society was, in many respects, comparable to that of blacks under the pre-Civil War slave codes. ... And although blacks were guaranteed

the right to vote in 1870, women were denied even that right'' until the Nineteenth Amendment.

This rationale 15 years ago led Brennan to the conclusion that ""classifications based upon sex, like classifications based upon race, alienage, or national origin, are inherently suspect.''

In the post-feminist era, that type of extravagant rhetoric is no longer fashionable. But Brennan hasn't gotten the message. Whereas in 1972 he used that rhetoric to conclude that ANY difference of treatment on account of sex was unacceptable, in 1987 he used similar rhetoric to conclude that job hiring MUST be made on account of sex.

So, we've come full circle. What was forbidden a decade ago is now mandatory. The trouble with this convoluted reasoning is that it really avoids the fundamental issues involved in Affirmative Action.

The first reason why Affirmative Action is wrong is that the woman receiving the benefit is NOT a woman who was ever discriminated against. Even if we concede that there should be a remedy to a grievance of years ago, nobody but the aggrieved should receive the remedy.

The second reason why Affirmative Action is wrong is that it is based on the strange theory of group rights as opposed to individual rights. Women are not a monolithic, cohesive group that can be dealt with by quotas. A grievance suffered by one woman should not translate into a ""right'' of another woman.

The third reason why Affirmative Action is wrong is that it is based on the feminist notion that employers must seek a 50-50 male-female distribution in all job categories, and anything less than that is defined as ""discrimination.'' Equal quotas are not compatible with equal opportunity; given the opportunity for free choice and equal access, men and women still choose different occupations, and they should be allowed to do so without some less qualified woman being preferentially hired for a job that few women want.

The fourth reason why Affirmative Action is wrong is that it creates resentments about injustice, and a contempt for the hypocrisy of pretending that

injustice is justice. As Charles Murray, the author of ""Losing Ground'' said, ""There has been an enormous drainage of good will toward racial equality. ... Affirmative Action is just leaking a poison into the system.''

The recent Supreme Court decision will simply exacerbate the numbers game in hiring. Personnel managers will continue to snicker and say, ""I'll hire a black woman because she qualifies in two quotas.''

That's not social justice. That's not stopping discrimination. That's reverse discrimination, and that's what it should be called.